



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Poulter, R. et al.

Serial No.: 09/430,590

Filed: October 29, 1999

For: AN UNUSUAL RETROTRANSPOSON FROM THE YEAST *CANDIDA ALBICANS*

Examiner: G. Leffers, Jr.

Group Art Unit: 1636

RECEIVED

AUG 19 2002

TECH CENTER 1600/2900

745 Fifth Avenue  
New York, New York 10151

DECLARATION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

WE, RUSSELL T. M. POULTER, WALTER H. M. L. LUYTEN, MARIANNE D. DE BACKER AND BART J. M. NELISSEN, DECLARE AND STATE THAT:

1. We are the co-inventors of the subject matter described and claimed in the present patent application.

2. A journal article entitled "pCal, a Highly Unusual Ty1/*copia* Retrotransposon from the Pathogenic yeast *Candida albicans*," Journal of Bacteriology, Nov. 1997, Vol. 179, No. 22, Pg. 7118-28 (hereinafter "Matthews et al."), names five authors: Genevieve D. Matthews, Timothy J. D. Goodwin, Margaret I. Butler, Thomas A. Berryman and Russell T. M. Poulter. I, Russell T. M. Poulter, am a co-author of Matthews et al. The authors of Matthews et al. are not "others" as defined by 35 U.S.C. § 102(a) as to the inventive entity of this application (Poulter, Luyten, DeBacker and Nelissen). Walter H. M. L. Luyten, Marianne D. DeBacker and Bart J. M. Nelissen are not named as authors on Matthews et al. for reasons which do not involve their status as co-inventors on the present application.

3. As is known in the scientific community, persons are or are not included as authors on scientific articles for reasons that do not involve inventorship. Any work reported in Matthews et al., particularly work that may be common to the present application, was performed by or under the direction, supervision or control of the inventors on the present application.

4. Thus, we are advised and therefore believe that since the authors of Matthews et al. are not "others" as to the present inventive entity, this document is not available as a reference against the present patent application. We thus respectfully request that rejections based on this document be reconsidered and withdrawn.

5. We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.

Date: \_\_\_\_\_

\_\_\_\_\_  
RUSSELL T. M. POULTER

Date: \_\_\_\_\_

\_\_\_\_\_  
WALTER H. M. L. LUYTEN

Date: Nov. 27<sup>th</sup>, 2001

  
\_\_\_\_\_  
MARIANNE D. DE BACKER

Date: \_\_\_\_\_

\_\_\_\_\_  
BART J. M. NELISSEN